

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7087

BILL NUMBER: HB 1183

NOTE PREPARED: Mar 8, 2010

BILL AMENDED: Feb 18, 2010

SUBJECT: Tax Sale Surplus Fund Agreements.

FIRST AUTHOR: Rep. Bartlett

FIRST SPONSOR: Sen. Dillon

BILL STATUS: Enrolled

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Tax Sale Surplus Fund Agreements*- The bill places restrictions on agreements by property owners for location, delivery, recovery, or assistance in the recovery of money deposited in the tax sale surplus fund.

Certification of Tax Sale Property List- The bill provides that the tax sale property list may be certified on or after January 1 and not later than 51 days after the first tax payment due date.

Costs Recovery- The bill allows a county to recover its costs of sale of certain certificates of sale.

Tax Sale Surplus Fund- The bill requires court approval of certain claims against the tax sale surplus fund.

Certificate of Sale- The bill allows the county executive to assign a certificate of sale with respect to real property to any political subdivision, and provides that the period of redemption of the real property is 120 days after the assignment.

Invalid Tax Sale- The bill establishes procedures to account for funds if a tax sale is declared invalid.

Sheriff's Sales- The bill allows a sheriff's sale to proceed only if the tax sale redemption amount and outstanding property taxes, special assessments, penalties, and interest are paid.

Notice- The bill requires notice to a tax sale purchaser of certain actions proposed with respect to the property under the unsafe building statute

Effective Date: (Amended) Upon passage; July 1, 2010.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Tax Sale Surplus Fund*- If more claims against the local tax sale surplus funds are decided in court, court fee revenues to the state general fund would increase.

Court Fee Revenue: A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: (Revised) *Certification of Tax Sale Property List*- Under current law, the county treasurer has to certify to the county auditor on or before July 1 or 51 days after the tax payment due date, a list of real property with unpaid property taxes, special assessments and costs since the prior year's spring installment or before. The county executive has to certify to the county auditor by the same date a list of vacant or abandoned real property that have unpaid property taxes, special assessments and costs since the prior year's fall installment or before. The county auditor and county treasurer, after verifying and updating the lists (e.g. deleting those properties for which all delinquencies have been paid), shall jointly apply to a court for judgment and permission to sell the remaining properties.

This bill changes the date that the list of delinquent properties have to be certified to the county auditor to on or after January 1 of each year that a tax sale is going to be held in the county but not later than 51 days after the first tax payment due date (usually July 1) of the tax sale year. This provision could save administrative expenses if a county does not hold a tax sale in a given year.

Invalid Tax Sale- In the event of an invalid sale, under the bill, the county auditor would have to refund the purchase money and an additional 6% per annum of interest. Secondly, the auditor would then certify the amount paid as a lien against the property and as a civil judgment against the property owner.

Sheriff's Sales- Current law stipulates that the proceeds of the sale of foreclosed property at a sheriff's sale be first used to offset expenses incurred in administering the sale (including the auctioneer's fee), then used to pay off any property taxes that are due on the property sold, and any amount of redemption where a certificate of sale is outstanding. Any funds remaining after these payments are applied to the payment of the principal due and other costs.

Under this bill, the party filing a praecipe (usually the mortgagee) would be liable for all delinquent taxes, special assessments, penalties, and interest that are due on the date of the sale or pay any amount of redemption if a tax sale certificate is outstanding. It requires the sheriff to cancel a sale if the person filing the praecipe for sale fails to make these payments.

This provision would enable local taxing units receive any property tax revenue due from foreclosed mortgaged properties even if the property in question was not sold at a sheriff's tax sale. Under current law, the revenue would be received only after the property is sold.

Explanation of Local Revenues: (Revised) *Costs Recovery*- Under current law, an individual who

purchases real property via a certificate of sale must pay certain costs including the minimum amount of the bid, attorney's fees, the costs of title search, and all property taxes, special assessments, and penalties. Under this provision, the individual would also have to pay all costs of the sale including advertising and other expenses directly related to the selling of the certificate of sale. This would enable local taxing units within a county to be reimbursed for continuing to provide services such as weeding, boarding, or sewer maintenance until the property is sold.

Tax Sale Surplus Fund- Current law authorizes the county auditor to approve payments from the tax sale surplus fund. This bill transfers approval authority from the auditor to the court having jurisdiction over the tax sale. Claimants would have to petition the court for payment and must do so within three (3) years after the date of sale of the parcel in the tax sale.

If more surplus claims are decided in court, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Certificate of Sale- The bill permits the county executive to assign a certificate of sale to a political subdivision if both parties adopt a resolution agreeing to the transfer. The period of redemption would be 120 days after the assignment.

Sheriff's Sales- Current law stipulates that the proceeds of the sale of foreclosed property at a sheriff's sale be first used to offset expenses incurred in administering the sale (including the auctioneer's fee), then used to pay off any property taxes that are due on the property sold, and any amount of redemption where a certificate of sale is outstanding. Any funds remaining after these payments are applied to the payment of the principal due and other costs.

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Notice- Under current law, a municipality or county may file a civil action against the owner of a building that is in violation of a building or health code, or has been deemed a public nuisance. Sanctions include issuing an injunction, entering a judgement, ordering an inspection, imposing a fine, imposing court costs and fees and ordering the owner to take corrective action. This bill extends the authority of the municipal corporation to properties purchased through a tax sale. If the property is declared unsafe per current law, the purchaser can be cited. In the long run, this would probably result in an increase in revenues for the local unit as the unsafe properties are developed and added to the tax base.

Background Information- The SRI corporation, which currently contracts with 79 Indiana counties to conduct tax sales, reported owners of approximately 2,750 parcels in 10 counties paid delinquent taxes and penalties *prior* to tax sale of the parcels as of September for CY 2009. Penalty amounts paid for CY 2009 are currently unavailable.

The following table provides further statistics from the counties under contract with SRI.

CY	Number of Parcels with Taxes and Penalties Paid Prior to Tax Sale	Number of Parcels Offered for Tax Sale	Number of Counties with Tax Sales During Year
2000	12,215	11,447	67
2001	15,172	10,353	71
2002	15,556	9,633	73
2003	8,293	6,818	31
2004	13,938	5,980	46
2005	15,819	8,435	64
2006	18,867	16,356	71
2007	12,795	16,380	47
2008	9,563	6,694	39
2009*	2,754	2,328	10
Ten-Year Total	124,972	94,424	
*Through September 2009			

State Agencies Affected:

Local Agencies Affected: Trial courts; County auditors; County executives; County treasurers; Local taxing units.

Information Sources: James Hughes, SRI, 842-5818.

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